



February 16, 2007

HOUSE BILL No. 1175

DIGEST OF HB 1175 (Updated February 15, 2007 2:28 pm - DI 96)

Citations Affected: IC 35-40.

Synopsis: Employee's or victim's right to attend proceedings. Provides that an employee who is the victim of a crime may take unpaid leave from work to attend court proceedings and confer with the prosecuting attorney concerning the crime unless the employee's absence would cause significant difficulty or expense to an employer. Prohibits an employer from reducing employee benefits to an employee who is absent from employment in order to: (1) file a petition for an order for protection; (2) attend a hearing regarding an order for protection; and (3) exercise certain rights of the employee as a victim, in certain circumstances. Prohibits an employer from refusing to employ an individual who has exercised the individual's rights to attend court proceedings or to confer with the prosecuting attorney. Requires that employment records concerning an employee's absence to: (1) confer with the prosecuting attorney; (2) file a petition for an order for protection; (3) attend a hearing regarding an order for protection; or (4) exercise certain rights of the employee as a victim; be kept confidential. Requires a prosecuting attorney to advise a victim of the victim's rights as an employee. Makes other changes.

Effective: July 1, 2007.

Dvorak

January 11, 2007, read first time and referred to Committee on Labor and Employment.
February 15, 2007, amended, reported — Do Pass.

HB 1175—LS 6892/DI 106+



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February 16, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1175

A BILL FOR AN ACT to amend the Indiana Code concerning labor.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-40-4-4.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 4.5. "Employee" means a victim employed by an**
4 **employer.**
- 5 SECTION 2. IC 35-40-4-4.6 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2007]: **Sec. 4.6. "Employer" means a person who:**
- 8 (1) **employed or will employ at least fifty (50) persons for each**
9 **working day in each of twenty (20) or more calendar weeks in**
10 **the current calendar year; or**
- 11 (2) **employed at least fifty (50) persons for each working day**
12 **in each of twenty (20) or more calendar weeks in the previous**
13 **calendar year.**
- 14 **The term includes a person who acts directly or indirectly in the**
15 **interest of an employer in relation to an employee.**
- 16 SECTION 3. IC 35-40-5-10 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2007]: **Sec. 10. (a) Subject to subsections (b), (c), and (f), an**

HB 1175—LS 6892/DI 106+



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employee has the right to leave work to:

(1) be present at a proceeding in accordance with:

(A) sections 5 through 7 of this chapter, in order to exercise the rights of a victim;

(B) IC 35-40-11-1, in order to exercise the employee's rights as a victim to be present and to be heard at court proceedings;

(C) file a petition for an order for protection under IC 34-26-5-2; or

(D) attend a hearing on a petition upon notification from a court under IC 34-26-5-10(a); and

(2) confer with a representative of the prosecuting attorney's office in accordance with section 3 of this chapter.

(b) An employer:

(1) may not:

(A) dismiss an employee; or

(B) reduce or restrict the:

(i) seniority;

(ii) precedence;

(iii) eligibility for a promotion;

(iv) eligibility for a salary increase; or

(v) eligibility for any other work related benefit;

of an employee who exercises the employee's rights under this section;

(2) may require an employee to use the employee's accrued vacation time, personal time, sick time, or compensatory leave time during the period the employee is absent from work while exercising the employee's rights under this section; and

(3) is not required to compensate an employee for any work time lost due to the employee's exercise of the employee's rights under this section.

(c) An employee may not exercise the employee's rights under this section unless the employee provides the employer with a copy of:

(1) the notice of victim's rights provided to the employee under IC 35-40-6-4; and

(2) any notice of scheduled proceedings that has been provided to the employee.

(d) Records maintained by an employer concerning an employee's exercise of the employee's rights under this section are confidential.

(e) An employer may not refuse to employ a person because the

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1 person has exercised the person's rights under this section.

2 (f) An employer may restrict the amount of time an employee is
3 absent under this section if the employee's absence would create
4 significant difficulty or cause significant expense to the employer
5 in light of the size of the employer's business and the importance
6 of the employee to the operation of the employer's business.

7 SECTION 4. IC 35-40-6-4 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A prosecuting
9 attorney or a victim assistance program shall do the following:

10 (1) Inform a victim that the victim may be present at all public
11 stages of the criminal justice process to the extent that:

12 (A) the victim's presence and statements do not interfere with
13 a defendant's constitutional rights; and

14 (B) there has not been a court order restricting, limiting, or
15 prohibiting attendance at the criminal proceedings.

16 (2) Timely notify a victim of all criminal justice hearings and
17 proceedings that are scheduled for a criminal matter in which the
18 victim was involved.

19 (3) Promptly notify a victim when a criminal court proceeding has
20 been rescheduled or canceled.

21 (4) Obtain an interpreter or translator, if necessary, to advise a
22 victim of the rights granted to a victim under the law.

23 (5) Coordinate efforts of local law enforcement agencies that are
24 designed to promptly inform a victim after an offense occurs of
25 the availability of, and the application process for, community
26 services for victims and the families of victims, including
27 information concerning services such as the following:

28 (A) Victim compensation funds.

29 (B) Victim assistance resources.

30 (C) Legal resources.

31 (D) Mental health services.

32 (E) Social services.

33 (F) Health resources.

34 (G) Rehabilitative services.

35 (H) Financial assistance services.

36 (I) Crisis intervention services.

37 (J) Transportation and child care services to promote the
38 participation of a victim or a member of the victim's
39 immediate family in the criminal proceedings.

40 (6) Inform the victim that the court may order a defendant
41 convicted of the offense involving the victim to pay restitution to
42 the victim under IC 35-50-5-3.

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(7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.

(8) Upon request of the victim, give the victim notice of the criminal offense for which:

(A) the defendant accused of committing the offense against the victim was convicted or acquitted; or

(B) the charges were dismissed against the defendant accused of committing the offense against the victim.

(9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:

(A) meet with the accused person or the offender in a safe, controlled environment;

(B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and

(C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.

(10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.

(11) Advise a victim of other rights granted to a victim under the law, **including the rights of an employee under IC 35-40-5-10.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1175, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 1, after "work to" insert ":".

Page 2, line 1, delete "exercise the employee's"

Page 2, delete line 2.

Page 2, line 4, delete "chapter; and" and insert **"chapter, in order to exercise the rights of a victim;"**.

Page 2, line 5, delete "IC 35-40-11-1; and" and insert **"IC 35-40-11-1, in order to exercise the employee's rights as a victim to be present and to be heard at court proceedings;"**.

Page 2, between lines 5 and 6, begin a new line double block indented and insert:

"(C) file a petition for an order for protection under IC 34-26-5-2; or

(D) attend a hearing on a petition upon notification from a court under IC 34-26-5-10(a); and".

and when so amended that said bill do pass.

(Reference is to HB 1175 as introduced.)

CHENEY, Chair

Committee Vote: yeas 11, nays 0.

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